

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

**CIVIL MINUTES - GENERAL**

Case No.	CV 11-7560 JST (MRWx)	Date	November 30, 2012
Title	Penske Media Corp. v. Prometheus Global Media LLC		

Present: The Honorable	Michael R. Wilner
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Veronica McKamie

n/a

Deputy Clerk

Court Reporter / Recorder

Attorneys Present for Plaintiff:

Attorneys Present for Defendant:

n/a

n/a

**Proceedings:** (IN CHAMBERS) ORDER RE: TIMELINESS OF DISCOVERY MOTION

The Court preliminarily reviewed the parties joint discovery motion in this civil action. (Docket # 32.) Plaintiff served several sets of written discovery requests on Defendant in March 2012. Defendant responded to the discovery in late April 2012. (Docket # 33 at Exhibits.) On November 28, 2012, the parties filed the joint discovery motion to compel additional discovery responses from Defendant.

According to the scheduling order originally entered by Judge Fairbank, the discovery cut-off in the action was November 9, 2012. (Docket # 17 at 9.) Judge Fairbank's case management order required any discovery motion to be filed and heard "sufficiently in advance of the discovery cut-off date" to permit any additional response ordered by the Court. (Docket # 17 at 3.)

The matter was subsequently transferred to Judge Tucker. Judge Tucker's case management order (Docket # 25) does not appear to have modified the discovery cut-off or pretrial conference dates previously set, although the trial was postponed for one week. Notably, Judge Tucker ordered that "[a]ny motion respecting the inadequacy of responses to discovery must be filed and served not later than ten (10) days after the discovery cut-off date." (Docket # 25 at 2.)

Based on the two district judges' orders, it appears that the last day by which the parties could have filed the discovery motion was Monday, November 19. See Fed. R. Civ. P. 6(a)(1)(A-C) (revised rule directing computation of "any time period specified in these rules, in any local rule or court order, or in any statute" to "count every day, including intermediate

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Saturdays, Sundays, and legal holidays”). The November 28 filing was considerably after that date. Additionally, the Court is aware that Judge Tucker denied a request that the parties made in early November 2012 to postpone all dates in the action – including the discovery cut-off and discovery motion dates – to March 2013. (Docket # 30, 31.)

Defendant contends that the discovery motion is untimely. (Docket # 32 at 5.) In the Court’s preliminary review of the 54-page motion, it did not observe any response from Plaintiff regarding the timeliness argument. Therefore, the Court orders the parties to appear by telephone at a status conference on Wednesday, December 5, 2012, at 2 p.m., to discuss this issue.